



HUMAN RIGHTS COMMISSION

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ALS NO: S-11783

1. On March 1, 2001, Complainant filed on her own behalf a Charge of Discrimination, alleging that she was the victim of sexual harassment. The parties

agreed to extend the time for the Department of Human Rights to investigate the Charge.

2. On May 20, 2002, the Department filed on behalf of Complainant a Complaint alleging that Complainant was the victim of sexual harassment.

3. On May 22, 2002, and on June 18, 2002, the Commission attempted to serve Respondent with a copy of the Complaint via certified mail. On both occasions, Respondent's copy of the Complaint was returned, with a notation by the post office "attempted-not known".

4. On June 25, 2002, an Order was entered, which noted the post office's unsuccessful efforts at delivering a copy of the Complaint to Respondent and directed Complainant's counsel to make other efforts at serving a copy of the Complaint on Respondent. The Order also cautioned that if Complainant could not obtain service of the Complaint on Respondent, the matter would be dismissed. The Order further directed Complainant to report back to the Commission by August 2, 2002 as to her efforts at obtaining service on Respondent.

5. On September 20, 2002, an Order was entered which noted that the Commission had not received a report from Complainant as to her efforts at serving Respondent. The Order further provided that Complainant would be given one more opportunity to attempt service on Complainant and to report to the Commission her efforts at doing so by October 18, 2002.

6. On October 16, 2002, counsel for Complainant filed a report with the Commission, indicating that she had been unsuccessful at discovering Respondent's address. Counsel, in seeking more time to locate Respondent, also stated that she attempted to find Respondent through his former employer, the post office, the Circuit Court and the Department of Corrections.

7. On October 17, 2002, an Order was entered that granted Complainant's request for more time until December 30, 2002 to locate Respondent, but cautioned that if Complainant could not provide the Commission with an address to serve Respondent with a copy of the Complaint, an Order would be entered recommending that the case be dismissed for failure to serve Respondent.

8. Complainant has not provided the Commission with a valid address for Respondent or filed a report subsequent to the entry of the October 17, 2002 Order as to any efforts at locating Respondent.

Conclusions of Law

1. The Commission's Procedural Rules provide that the Commission shall cause a Complaint "to be served on all Parties either personally or by depositing copies in the mail, properly addressed and posted, for certified delivery." 56 Ill. Admin. Code, Ch. XI, §5300.620.

2. The Commission lacks jurisdiction over the Respondent due to the lack of service of the Complaint.

3. Without some indication that the Respondent has been notified of this action by means of service, the Commission is unable to proceed.

Determination

Section 5300.620 of the Commission's Procedural Rules (56 Ill. Admin. Code, Ch. XI, §5300.620) requires that each party be served with a copy of the Complaint either personally or by certified mail. Unfortunately, Respondent has not been served with a copy of the Complaint that was sent to Respondent's address listed in the record, and the Commission has not otherwise obtained personal jurisdiction over Respondent so that it can proceed with this case. (See, for example, **House and Help at Home Inc.**, ___ Ill. HRC Rep. ___ (1998CF2830, June 12, 2000).) Moreover, Complainant has been given ample opportunity to locate Respondent, but has been unable to do so in

spite of inquiring about Respondent at several different places. Indeed, Complainant was directed to file a report by December 20, 2002 regarding any additional efforts at locating Respondent, but has failed to do so. Under these circumstances, and after approximately ten months in attempting to locate Respondent, it appears unlikely that Complainant will ever discover the whereabouts of Respondent. Thus, this case must be dismissed because, without personal jurisdiction over Respondent, the Commission is unable to rule on the merits of the Complaint.

Recommendation

Accordingly, I recommend that the Complaint and the underlying Charge of Discrimination of Rienna Montgomery be dismissed with prejudice.

HUMAN RIGHTS COMMISSION

BY: _____
MICHAEL R. ROBINSON
Administrative Law Judge
Administrative Law Section

ENTERED THE 12TH DAY OF MARCH, 2003